

## SB 411 – Generally Revise Laws Related to Taxation

### Section 2 - MCA §15-1-216 – Substantial Understatement of Tax Penalty

#### Individual Income Tax

There is a substantial understatement of tax if the understatement is the greater of 10% of the amount required to be shown on the return or \$3,000.

##### Example 1:

- Taxpayer filed return and paid a tax liability of \$1,000
- Per audit, the adjusted tax liability is \$5,000

Does the understatement (\$4,000) exceed the greater of 10% of the tax required to be shown on the return ( $10\% \times \$5,000 = \$500$ ) OR \$3,000?

**Yes:** Penalty is 20% of underpayment (\$4,000) = \$800

##### Example 2:

- Taxpayer filed return and paid a tax liability of \$750
- Per audit, the adjusted tax liability is \$1,000

Does the understatement (\$250) exceed the greater of 10% of the tax required to be shown on the return ( $10\% \times \$1,000 = \$100$ ) OR \$3,000?

**No:** Penalty will not be assessed.

#### Corporation License Tax - Other Taxes

There is a substantial understatement of tax if the understatement exceeds the lesser of 10% of the amount required to be shown on the return (provided the understatement is greater than \$10,000), or \$500,000

##### Example 1:

- Taxpayer filed return and paid a tax liability of \$80,000
- Per audit, the adjusted tax liability is \$150,000

Does the understatement (\$70,000) exceed the lesser of 10% of the tax required to be shown on the return ( $10\% \times \$150,000 = \$15,000$ ) provided the understatement is  $> \$10,000$  OR \$500,000?

**Yes:** Penalty is 20% of underpayment (\$70,000) = \$14,000

##### Example 2:

- Taxpayer filed return and paid a tax liability of \$25,000
- Per audit, the adjusted tax liability is \$30,000

Does the understatement (\$5,000) exceed the lesser of 10% of the tax required to be shown on the return ( $10\% \times \$30,000 = \$3,000$ ) provided the understatement is  $> \$10,000$  OR \$500,000?

**No:** Penalty will not be assessed.